

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 2527 of 2005

Between:

N.Ramesh, E.351922, Conductor,
Gannavaram Depot, s/o.Prasad Rao,
45 years, R/o.Gannavaram, Krishna Dist.

..... PETITIONER

AND

1. The APSRTC, Rep. By its Regional
Manager, Krishna Region at Vijayawada.
2. The APSRTC, Rep by its Depot Manager,
Jaggiahpet, Krishna Dist.
3. The APSRTC, Rep. By its Depot Manager,
Gannavaram, Krishna Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents herein in imposing the punishment of deferment of annual increment for a period of 4 years with cumulative effect

without holding any departmental enquiry vide Proc.No.PA/62(29)/92-jpt, Dt. 12-08-1992, as illegal, unjust, contrary to well established principles of law and as such liable to be set aside by further direction the respondents to re-fix the pay of the petitioner by adding the differed increment w.e.f. 12-08-1992 and to pay the arrears forthwith and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.M.SUBHAN

Standing Counsel for the Respondents: MR.R.MANMADHA REDDY

The Court, at the admission stage, made the following :

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 2527 of 2005

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ORDER:

The petitioner is working as a conductor in the respondent-Corporation. He was issued a charge sheet on 14-04-1992 on the allegation of some cash and ticket irregularities and after receiving the explanation of the petitioner, the final orders were passed on 12-08-1992 imposing the penalty of withholding of one incremental stage for a period of four years with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment for a period of four years with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and it is liable to be set aside. He filed an appeal before the conciliation authority but the same was dismissed by the appellate authority.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**¹ wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 12 years. There are laches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside in view of the judgment of the Supreme Court in Kulwant Singh Gill (1 supra), on account of long lapse of time in filing the writ petition, I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment for four years without cumulative effect. But, the petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. However, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of reduction of one annual increment for four years without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. No costs.

February 15, 2005

Kvr

To

1. The Regional Manager, APSRTC, Krishna Region at Vijayawada.
2. The Depot Manager, APSRTC,
Jaggiahpet, Krishna Dist.
3. The Depot Manager, APSRTC,
Gannavaram, Krishna Dist.

4. Two C.D copies.